

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 4181.01US01

Jonathan Michael Peterson

Confirmation No.: 7792

Application No.: 10/056,250

Examiner: Victor Batson

Filed: January 23, 2002

Group Art Unit: 3671

For: SOD LAYING MACHINE

RENEWED PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Washington, D.C. 22313-1450

Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to a Notice or Action by the U.S. Patent and Trademark Office. Applicant hereby requests revival of the present Application for unintentional abandonment. Herewith is a Declaration of the inventor, Jonathan Michael Peterson in support of the petition, along with evidence in support thereof. Additional details regarding this petition are set-forth below.

The Applicant's reply to the Office Action was submitted on May 29, 2008, along with a Petition for Revival of the Application. On October 1, 2008, the Office of Petitions dismissed the Petition to Revive. The dismissal stated that the instant Petition lacked a statement that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b), was unintentional. The delay had not been shown to the satisfaction of the Director to be unintentional for the period relating to the delay in replying to an Office Action which originally resulted in the abandonment, and for the period

relating to the delay in filing an initial Petition pursuant to 37 CFR 1.137(b) to revive the Application. Since the Application was filed after June 8, 1995, a Terminal Disclaimer is not required.

Applicant notes that the instant U.S. Patent Application No. 10/056,250 to Peterson was filed on January 23, 2002. The first Office Action was mailed to the Attorney of Record at the time, Larry M. Jennings, on March 6, 2003. Therefore more than a year had passed since the patent application was filed. As no response to the Office Action was filed, a Notice of Abandonment was sent to Mr. Jennings on December 8, 2003.

It is further noted that proceeding No. D04-12 in the U.S. Patent and Trademark Office resulted in a Settlement Agreement being submitted between the Director of Enrollment and Discipline of the U.S. Patent and Trademark Office and Larry M. Jennings (USPTO No. 34,191). The proceeding and disciplinary action resulted due to Mr. Jennings allowing two patent applications to go abandoned and failing to timely file a PCT patent application. A copy of the Final Order is enclosed. The following information is based upon information in the Final Order.

Mr. Jennings filed a Patent Application on February 19, 1998 for a client which received an Office Action dated Sept 27, 1999. The U.S. Patent and Trademark Office failed to receive a response to the Office Action and on or about December 28, 1999, the application became abandoned, and a Notice of Abandonment dated April 24, 2000, was mailed to Mr. Jennings. On April 25, 2002, Mr. Jennings filed a Petition for Revival of an unintentionally abandoned application together with amendments to the claims for the Patent Application.

On May 1, 2000, Mr. Jennings filed another U.S. Patent Application for the same client (U.S. Patent Application No. 09/562,062). The USPTO issued an Office Action dated March 1, 2001; however, the USPTO failed to receive a response to the Office Action and on or about June 1, 2001, the Patent Application also became abandoned. The USPTO issued a Notice of Abandonment dated October 1, 2001. In July 2002, Mr. Jennings provided the client with a status letter expressly referencing the patent that was filed on May 1, 2000, and indicating that it appeared likely that patents would issue covering the inventions. On October 21, 2002, Mr. Jennings filed a Petition for Revival of the unintentionally abandoned application for the second patent application.

In April 2001, Mr. Jennings agreed to file a PCT application for the client. Based on the Final Order record, on May 3, 2001, Mr. Jennings met with the client and informed the client that he had prepared the requested PCT application but he failed to file the PCT application by the filing deadline.

The disciplinary action taken by the USPTO was that Mr. Jennings would be suspended for one year from practice of Patent, Trademark and other non-patent law before the USPTO, starting from the date of the Final Order (October 5, 2005). Within 30 days of the Final Order, Mr. Jennings was to surrender each client's active Patent and Trademark Office case files to the respective client or another Practitioner designated by each client and file proof thereof with the OED Director within the same 30 day period. During the suspension period, any communication relating to a client matter that was addressed to Mr. Jennings and/or received by him was to be immediately forwarded to the client or the Practitioner designated by the client. Mr. Jennings would take no other legal action in the matter. Following the suspension for one year and

compliance with the above and other provisions, Mr. Jennings could apply to be reinstated to practice, effective upon a Petition for Reinstatement and accompanying affidavit showing compliance with the conditions noted in the Final Order. It is noted in the Final Order that Minnesota Supreme Court Case No. A04-2371 is referenced.

As noted by the time frame above (1998-2001), prior to Mr. Peterson's engagement of Mr. Jennings to draft and prosecute his patent application, Mr. Jennings had failed to file responses to the USPTO, and his client's two patent applications were allowed to go abandoned.

The Director of the Office of Lawyers Professional Responsibility in the State of Minnesota for Disciplinary Action alleged that Larry Martin Jennings had committed professional misconduct warranting public discipline and alleged that Mr. Jennings failed to pursue with reasonable diligence patent applications submitted on behalf of a client, failed to notify the client about correspondence from the U.S. Patent and Trademark Office in abandonment of the applications, and told the client that the applications were pending when the applications had been abandoned. A copy of the order A04-2371 from the State of Minnesota Supreme Court is enclosed.

The agreed upon discipline was a 90-day suspension and payment of \$900 in costs and disbursements as well as a two year period of probation subject to the conditions listed in the Order. For example, Mr. Jennings agreed that during the term of his probation he would not engage in the practice of law except as an employee of a law firm, where he is subject to direct supervision by a licensed Minnesota lawyer and is provided with sufficient support to ensure his prompt response to client requests for information and in compliance with deadlines. The date of the Order is January 14, 2005. On May 23, 2005, Larry Jennings was reinstated to the practice

of law in the State of Minnesota. The order reinstating Mr. Jennings is attached. Mr. Jennings was placed on unsupervised probation for a period of two years on May 26, 2005.

The Director of the Office of Lawyers Professional Responsibility filed a Petition and Amended Petition for Revocation of the two year probation alleging that Mr. Jennings committed professional misconduct warranting public discipline, namely, failure to comply of his probation, neglect of client matters, failure to communicate with the client and failure to notify a client of his change of address and failure to cooperate in a disciplinary investigation. The recommended discipline was a 60-day suspension stayed on conditioned that Mr. Jennings provide the Director with a current address, and two years of further probations subject to the same conditions imposed in the May 26, 2005 Order. The date of the order is May 6, 2008. A copy of the order is enclosed.

Based on the above information, it is apparent that Mr. Jennings from as at least as early as 1998 to the date of the last of order of May 6, 2008, has been found to be neglectful of client matters and has failed to communicate with a client, among other issues. Mr. Peterson's Patent Application was filed on January 23, 2002, during the above-noted period of Mr. Jennings' neglect of clients and disciplinary action. Mr. Peterson states that he was not informed by Mr. Jennings that his patent application had gone abandoned. Further, Mr. Peterson indicates when he called Mr. Jennings' Office, he was assured that everything was fine. It is noteworthy that this is the first and only patent application Mr. Peterson has filed, therefore he was inexperienced and relied on his Patent Attorney to timely prosecute his patent application. Mr. Peterson was aware that an Office Action was received, approximately one year after filing. Because Mr. Peterson was assured that everything was fine, he did not pursue further questions about his

Patent Application with Mr. Jennings. Contrary to the requirements of the Order from the OED, Mr. Jennings did not inform Mr. Peterson that he was suspended from practice in front of the USPTO for one year from the date of the Final Order (October 5, 2005). Mr. Peterson has no recollection of Mr. Jennings sending him his file or asking him for the name of another attorney to whom to send his file.

Mr. Peterson did not delay in filing an initial Petition pursuant 37 CFR 1.137(b) to revive the application because he was unaware that the application had been abandoned and had been assured that everything was proceeding as it should. Upon discovering that the application had gone abandoned, Mr. Peterson sought other legal assistance to determine what could be done regarding his patent application. Hence, it can be shown that the delay in filing a Petition to Revive the Application was unintentional.

Further, it is noteworthy that abandoned Patent Application Nos. 09/020,708 and 09/562,064 (which are part of the bases for the OED disciplinary action) were revived and issued as U.S. 6,568,419 and 6,938,639. The Director and/or Petition Examiner is invited to call the undersigned to advance resolution of the submitted Petition to Revive the U.S. Patent Application No. 10/056,250.

The Commissioner is hereby authorized to charge any underpayment or additionally required fees, and credit any overpayment to Deposit Account No. 16-0631.

Respectfully submitted,



Kyle T. Peterson
Registration No. 46,989

Customer No. 24113
Patterson, Thunte, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 252-1554

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 4181.01US01

Jonathan Michael Peterson

Confirmation No.: 7792

Application No.: 10/056,250

Examiner: Victor Batson

Filed: January 23, 2002

Group Art Unit: 3671

For: SOD LAYING MACHINE

DECLARATION OF JONATHAN MICHAEL PETERSON

Mail Stop Petition
Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Jonathan M. Peterson declare as follows:

1. I am President of Peterson Companies, Inc., a Minnesota Corporation.
2. I have been the President for approximately 10 years.
3. I have been with Peterson Companies, Inc. for at least 10 years.
4. On June 9, 2000, I engaged Larry M. Jennings to draft and prosecute a patent application regarding a Sod Laying Machine; now Applicant Serial No. 10/056,250.
5. I have filed one patent application in my lifetime; U.S. Patent Application No. 10/056,250
6. On information and belief, I was told by Mr. Jennings that it would take about one year to hear back from the Patent Office after the patent application was filed.
7. On information and belief, I contacted the office of Mr. Jennings to determine the status of the patent application. I was told things were fine and that Mr. Jennings was in contact with the Examiner and making changes, and that the patent should be approved and that Mr. Jennings would handle everything and let me know of any concerns.

8. On information and belief, I was not informed that my patent application was abandoned.
9. I found out the patent application was abandoned because I tried to contact Mr. Jennings and could not reach him; the telephone had been disconnected, and I tried to find a phone number for him.
10. I contacted the Patent Office to try to find out about the patent. After some research and help from the Patent Office personnel, I discovered that the patent had gone abandoned.
11. Once I knew about the abandonment of the patent application, I sought other legal counsel.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of the patent.

Date: 10-22-08

By 
Jonathan Michael Peterson

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR OF THE UNITED STATES PATENT
AND TRADEMARK OFFICE**

In the Matter of)
)
Larry M. Jennings)
)
Respondent.)
)

Proceeding No.: D04-12

FINAL ORDER

The Director of Enrollment and Discipline (OED Director) of the United States Patent and Trademark Office (USPTO) and Larry M. Jennings, Respondent, USPTO registration No. 34,191, have submitted a settlement agreement in the above proceeding. In order to avoid the necessity of an oral hearing, Respondent and the OED Director have agreed to certain stipulated facts, legal conclusions, and discipline.

STIPULATED FACTS

Count 1

1. Respondent was retained by Promethean Medical Technologies, Inc. (Promethean) and its President and CEO, Allan R. Robinson (Robinson), as its intellectual property attorney in January of 1998, to *inter alia*, compose and prosecute certain patent applications.
2. On February 19, 1998, Respondent filed U.S. patent application No. 09/020,708 ('708 application) on behalf of inventors Robinson and Dennis Risvedt and assignee Promethean for the invention "Disposable Fluid Control Island." Respondent also filed a Power of Attorney in the '708 application authorizing Respondent to prosecute the '708 application and directing all communications to Respondent at Respondent's address set forth in the Power of Attorney.
3. The USPTO issued an Office Action dated September 27, 1999, in the '708 application rejecting all claims in the application and setting a three-month period for reply. The Office Action was mailed to Respondent at Respondent's address set forth in the Power of Attorney, in accordance with the directions in the Power of Attorney. According to Robinson, Respondent acknowledged receipt of the Office Action and indicated that the issues therein would be addressed.
4. The USPTO failed to receive a response to the Office Action and on or about December 28, 1999, the '708 application became abandoned. The USPTO issued a Notice of

Abandonment dated April 24, 2000 in the '708 application. The Notice of Abandonment was mailed to Respondent at Respondent's address set forth in the Power of Attorney. On information and belief, Respondent did not report the Notice of Abandonment to Promethean or Robinson.

5. On April 11, 2000, Respondent wrote to Robinson indicating that the '708 application is pending.
6. On April 25, 2002 Respondent filed with the USPTO a Petition for Revival of Unintentionally Abandoned Application together with amendments to the claims of the '708 application.
7. On May 15, 2002 the USPTO issued a Decision on Respondent's April 25, 2002, petition.

Count 2

8. Above paragraphs 1-7 are incorporated herein by reference.
9. On May 1, 2000, Respondent filed U.S. patent application No. 09/562,064 ('064 application) on behalf of inventor Robinson and assignee Promethean for the invention "Disposable Fluid Control Island." Respondent also filed a Power of Attorney in the '064 application authorizing Respondent to prosecute the '064 application and directing all communications to Respondent at Respondent's address set forth in the Power of Attorney.
10. The '064 application also included a Declaration claiming benefit to the filing date of the '708 application.
11. The USPTO issued an Office Action dated March 1, 2001, in the '064 application rejecting all claims in the application and setting a three-month period for reply. The Office Action was mailed to Respondent at Respondent's address set forth in the Power of Attorney, in accordance with the directions in the Power of Attorney. On information and belief, the Office Action was not reported to Promethean or Robinson.
12. The USPTO failed to receive a response to the Office Action and on or about June 1, 2001, the '064 application became abandoned. The USPTO issued a Notice of Abandonment dated October 1, 2001, in the '064 application. The Notice of Abandonment was mailed to Respondent at Respondent's address set forth in the Power of Attorney. On information and belief, Respondent did not report the Notice of Abandonment to Promethean or Robinson. Respondent asserts that he had no knowledge of receiving said Notice of Abandonment.
13. In July 2002, Respondent provided Promethean with a status letter expressly referencing a "Disposable Fluid Control Island for Hysteroscopy" that was filed on "May 1, 2000,"

(the filing date for the '064 application), and indicating that "it appears likely that patents will issue covering your inventions."

14. On October 21, 2002, Respondent filed with the USPTO a Petition for Revival of Unintentionally Abandoned Application to revive the '064 application.

Count 3

15. Above paragraphs 1-14 are incorporated herein by reference.
16. In April 2001, Respondent agreed to file a Patent Cooperation Treaty (PCT) application for Promethean in order to extend the time for Promethean to decide whether to seek foreign patent rights. The PCT application was to be based on the '064 application (filed May 1, 2000). Respondent placed the funds for the PCT application in his corporate account.
17. On May 3, 2001, Respondent met with Robinson in person at the Promethean offices and there informed Robinson and Promethean that he had prepared the requested PCT application, but that he failed to file the PCT application by the filing deadline (12:00 midnight, May 1, 2001), stating to Robinson that he "had not gotten the Application to the Post Office in time."

LEGAL CONCLUSIONS

18. Based upon the foregoing stipulated facts, Respondent agreed that his conduct violated the following Disciplinary Rules of the Code of Professional Responsibility as outlined in Section 10 of 37 C.F.R.:

Count 1

- a. Rule 10.23(b)(4) in that Respondent engaged in conduct involving misrepresentation by representing to Promethean that the '708 application was pending in at least one letter when in fact the '708 application was abandoned;
- b. Rule 10.23(c)(8) in that Respondent failed to inform and/or promptly communicate with his client in failing to notify Promethean and/or Robinson of the Notice of Abandonment in the '708 application; and
- c. Rule 10.77(c) in that Respondent neglected a legal matter entrusted to him in allowing the '708 application to become abandoned, failing to notify Promethean and/or Robinson of the Notice of Abandonment in the '708 application.

Count 2

- d. Rule 10.23(c)(8) in that Respondent failed to inform and or promptly communicate with his client in failing to notify Promethean and/or Robinson of the Notice of Abandonment in the '064 application; and
- e. Rule 10.77(c) in that Respondent neglected a legal matter entrusted to him in allowing the '064 application to become abandoned, failing to notify Promethean and/or Robinson of the Notice of Abandonment in the '064 application.

Count 3

- f. Rule 10.77(c) in that Respondent neglected a legal matter entrusted to him in failing to deliver the PCT application to the U.S. Postal service before the deadline for filing a PCT application based on the '064 application; and
- g. Rule 10.112(a) in that Respondent did not cause Promethean's funds to be deposited in identifiable banks accounts in the United States and separately preserve the identity of Promethean's funds.

DISCIPLINE

19. Respondent agreed, and it is ordered that:

- a. Respondent be suspended for one (1) year from practice of patent, trademark, and other non-patent law before the USPTO starting from the date of a Final Order concerning this matter.
- b. The OED Director will publish the following Notice in the Official Gazette:

Notice of Suspension

Larry M. Jennings, of Minneapolis, MN, a patent attorney, with registration number 34,191, has been suspended for one year from practice before the United States Patent and Trademark Office in patent, trademark, and other non-patent law cases beginning effective as of *the date of the Final Order*. This suspension is made pursuant to the provisions of 35 U.S.C. § 32, and 37 C.F.R. § 10.133(g).

- c. Within 30 days of the date of this Final Order, Respondent shall, in accordance with 37 C.F.R. § 10.158(b)(2), surrender each client's active USPTO case file(s) to (1) each client or (2) another practitioner designated by each client, and shall file proof thereof with the OED Director within the same 30 day period.

d. During the period Respondent is suspended any communication relating to a client matter that is addressed to Respondent and/or received by him shall be immediately forwarded to the client or the practitioner designated by the client, and that Respondent will take no other legal action in the matter, enter any appearance, or provide any legal advice concerning the matter that is the subject of the communication, all in accordance with 37 C.F.R. §§ 10.158(a), (b)(2), (b)(6).

e. Within 30 days of the date of this Final Order, Respondent shall, in accordance with 37 C.F.R. §§ 10.158(b)(8), 10.160(d), return to any client having immediate or prospective business before the Office any unearned legal funds, including any unearned retainer fee, and any securities and property of the client, and shall file a proof thereof with the OED Director no later than filing his petition for reinstatement.

f. After the date of this Final Order, Respondent shall promptly take steps to comply with the provisions of 37 C.F.R. § 10.158(b)(3), (b)(4), (b)(5), (b)(6), and (b)(7), and further, within 30 days of taking steps to comply with § 10.158(b)(4) Respondent shall file with the OED Director an affidavit describing the precise nature of the steps taken, and still further directing that Respondent shall submit proof of compliance with §§ 10.158(b)(3), (b)(5), (b)(6), and (b)(7) with the OED Director upon filing a petition for reinstatement under 37 C.F.R. § 10.160.

g. After the date of this Final Order, Respondent shall promptly take steps to fully comply with the provisions of 37 C.F.R. §§ 10.158(c) and (d).

REINSTATEMENT

20. Respondent agreed, and it is ordered that following the suspension for one (1) year in compliance with the foregoing provisions, Respondent may apply to be reinstated to practice effective upon filing a petition for reinstatement and accompanying affidavit showing compliance with the following conditions:

- a. Respondent demonstrates full compliance with 37 C.F.R. §§ 10.158 and 10.160, and
- b. Respondent provides proof that he continues to participate in all therapy programs or else provides proof that he successfully completed all therapy programs recommended by the licensed consulting psychologist or other mental health professional accepted by the Minnesota Director of the Office of Lawyers Professional Responsibility as required by the

Minnesota Supreme Court in case No. A04-2371. Upon request, Respondent shall provide to the OED Director medical authorizations sufficient to authorize the OED Director to obtain his treatment records and reports and to discuss his treatment with the treatment providers. The information provided pursuant to this section must comply with 37 C.F.R. § 10.160.

10/5/05
Date

/s/
James A. Toupin
General Counsel
United States Patent and Trademark
Office
on behalf of
Jon W. Dudas
Under Secretary of Commerce For
Intellectual Property and Director of
the United States Patent and
Trademark Office

cc: Harry I. Moatz
Office of Enrollment and Discipline
USPTO

Larry M. Jennings

STATE OF MINNESOTA

IN SUPREME COURT

A07-1614

In re Petition for Disciplinary Action against
Larry Martin Jennings, a Minnesota Attorney,
Registration No. 202630.

O R D E R

On May 26, 2005, this court placed respondent Larry Martin Jennings on unsupervised probation for a period of two years, subject to certain conditions. The Director of the Office of Lawyers Professional Responsibility has filed a petition and an amended petition for revocation of that probation, alleging that respondent committed professional misconduct warranting public discipline, namely, failure to comply with the terms of his probation, neglect of client matters, failure to communicate with a client, and failure to notify a client of his change of address, in violation of Minn. R. Prof. Conduct 1.3, 1.4(a), 1.4(b), and 8.1(b), and failure to cooperate with a disciplinary investigation, in violation of Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

Respondent admits the allegations of the amended petition and waives his procedural rights under Rule 14, RLPR. Respondent has entered into a stipulation with the Director under which they jointly recommend that the appropriate discipline is a 60-day suspension, stayed on condition that respondent provide the Director with a

current address, and two years of further probation subject to the same conditions imposed in the May 26, 2005, order.

The court has independently reviewed the file and approves the jointly recommended disposition as modified.

Based on all the files, records and proceedings herein,

IT IS HEREBY ORDERED that respondent Larry Martin Jennings is suspended from the practice of law for a period of 60 days from the date of filing of this order. Such suspension is stayed on condition that respondent provide the Director with a current address for service of process within 14 days of the date of filing of this order. The stay shall be lifted, and respondent shall be suspended immediately, upon the Director's Office's filing of an affidavit stating that respondent has failed to provide an address for service within the required time. If the stay is lifted, respondent may apply for reinstatement pursuant to Rule 18(f), RLPR.

Respondent is hereby placed on probation for a period of two years from the date of the filing of this order, subject to the following conditions:

(a) Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation, shall respond to the Director's correspondence by the due date, and shall provide progress reports as may be reasonably requested. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct that may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

(b) Respondent shall abide by the Minnesota Rules of Professional Conduct.

(c) During the term of this probation, respondent shall not engage in the practice of law except as an employee of a law firm in which he is subject to direct supervision by a licensed Minnesota lawyer. Upon engaging in the practice of law, respondent shall initiate and maintain office procedures which ensure prompt responses to correspondence, telephone calls, and other important communications from clients, courts, and other persons interested in matters that respondent is handling, and which ensure that respondent regularly reviews each and every file and completes legal matters on a timely basis. Within 30 days of the commencing the practice of law pursuant to this paragraph, respondent shall provide to the Director a written plan outlining these office procedures.

(d) Respondent shall continue current treatment by a licensed consulting psychologist or other mental health professional acceptable to the Director, and shall complete all therapy programs recommended by the therapist. Respondent shall continue his participation in Lawyers Concerned for Lawyers. Upon request, respondent shall provide to the Director medical authorizations sufficient to authorize the Director to obtain his treatment records and reports and to discuss his treatment with the treatment providers.

(e) Respondent shall notify the Director of any change in his address for service of process. Pursuant to the terms of the parties' stipulation, delivery of the Director's correspondence to the last such address provided by respondent shall be deemed receipt of the correspondence by respondent.

Respondent shall pay \$900 in costs pursuant to Rule 24, RLPR.

Dated: May 6, 2008

BY THE COURT:

/s/

Alan C. Page
Associate Justice

STATE OF MINNESOTA

IN SUPREME COURT

A04-2371

In re Petition for Disciplinary Action against
Larry Martin Jennings, a Minnesota Attorney,
Registration No. 202630.

O R D E R

The Director of the Office of Lawyers Professional Responsibility has filed a petition for disciplinary action alleging that respondent Larry Martin Jennings has committed professional misconduct warranting public discipline. The Director alleges that Jennings failed to pursue with reasonable diligence patent applications submitted on behalf of a client, failed to notify the client of correspondence from the U.S. Patent and Trademark Office and of abandonments of the applications, told the client that the applications were pending when the applications had been abandoned and failed to deposit in his trust account \$3,000 delivered to him by the client when he had not yet become entitled to all of those funds. The Director asserts that Jennings' conduct violated Minn. R. Prof. C. 1.3, 1.4, 1.15, 4.1, and 8.4(c).

Respondent admits his conduct violated the Rules of Lawyers Professional Conduct, waives his rights under Rule 14, Rules on Lawyers Professional Responsibility (RLPR), and has entered into a stipulation with the Director in which they jointly recommend that the appropriate discipline is a 90-day suspension and payment of \$900 in costs and disbursements under Rule 24, RLPR. The parties further agree that the reinstatement hearing provided for in Rule 18(a) through (d), RLPR, be waived and that upon reinstatement, respondent be subject to a two-year period of probation subject to the following conditions:

(a) Respondent shall cooperate fully with the Director's Office in its efforts to monitor compliance with this probation and promptly respond to the Director's correspondence by the due date. Respondent shall cooperate with the Director's investigation of any allegations of unprofessional conduct that may come to the Director's attention. Upon the Director's request, respondent shall provide authorization for release of information and documentation to verify compliance with the terms of this probation.

(b) Respondent shall abide by the Minnesota Rules of Professional Conduct.

(c) Respondent, during the term of his probation, shall not engage in the practice of law except as an employee of a law firm in which he is subject to direct supervision by a

licensed Minnesota lawyer and is provided with sufficient support to ensure his prompt response to client requests for information and compliance with deadlines.

(d) Respondent shall initiate and maintain office procedures which ensure that there are prompt responses to correspondence, telephone calls, and other important communications from clients, courts and other persons interested in matters which respondent is handling, and which ensure that respondent regularly reviews each and every file and completes legal matters on a timely basis.

(e) Within thirty days from the commencement of his employment with a law firm, respondent shall provide to the Director a written plan outlining office procedures designed to ensure that respondent is in compliance with probation requirements. Respondent shall provide progress reports as requested.

(f) Respondent shall continue current treatment by a licensed consulting psychologist or other mental health professional acceptable to the Director, and shall complete all therapy programs recommended by the therapist. Respondent shall continue with his participation in Lawyers Concerned for Lawyers. Upon request, respondent shall provide to the Director medical authorizations sufficient to authorize the Director to obtain his treatment records and reports and to discuss his treatment with the treatment providers.

This court has independently reviewed the file and approves the jointly recommended disposition. Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED that respondent Larry Martin Jennings is suspended from the practice of law for 90 days, effective immediately. Respondent may petition for reinstatement by affidavit pursuant to Rule 18(f), RLPR. Upon reinstatement, respondent shall be placed on probation for two years subject to the agreed-upon conditions set forth above. Respondent shall pay \$900 in costs and disbursements pursuant to Rule 24, RLPR.

Dated: January 14, 2005

BY THE COURT:

/s/

Paul H. Anderson
Associate Justice

STATE OF MINNESOTA

IN SUPREME COURT

A04-2371

In re Petition for Disciplinary Action against
Larry Martin Jennings, a Minnesota Attorney,
Registration No. 202630.

O R D E R

On January 14, 2005, this court suspended respondent Larry Martin Jennings from the practice of law for a period of 90 days followed by two years of conditional probation. *In re Jennings*, 690 N.W.2d 714 (Minn. 2005).

Respondent has filed an affidavit seeking reinstatement to the practice of law. The Director of the Minnesota State Board of Lawyers Professional Responsibility has filed an affidavit stating that, to the best of the Director's knowledge, respondent has complied with the conditions for reinstatement, and stating that the Director does not oppose reinstatement.

Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED that, effective immediately, respondent Larry Martin Jennings is reinstated to the practice of law in the State of Minnesota. Respondent is placed on probation for two years subject to the terms and conditions set forth in the court's January 14, 2005, order. Respondent shall successfully complete the professional responsibility portion of the bar examination by January 14, 2006. Respondent shall complete payment of costs according to the terms of the payment agreement entered into with the Director.

Dated: May 23, 2005

BY THE COURT:

Russell A. Anderson
Associate Justice